

**REMARKS**

In the Office Action<sup>1</sup>, the Examiner:

rejected claims 1-7 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent Publication No. 2002/0002478, to Swart et al. ("Swart"), and

rejected claims 35-41 and 47 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent Publication No. 2002/0029161 to Brodersen et al. ("Brodersen").

Claims 1, 6, 35, 36, 39, 41, and 47 are amended. Claim 5 is cancelled without prejudice or disclaimer. Claims 1-4, 6-7, 35-41, and 47 remain pending and under examination. Claims 8-34 have been withdrawn. No new matter is added by this amendment.

Applicant respectfully traverses the rejection of claims 1-7 under 35 U.S.C. § 102(b) as anticipated by Swart.

In order to properly establish that Swart anticipates Applicant's claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Swart does not anticipate the claims at least because it fails to teach, or even suggest, each and every element of the claims.

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<sup>1</sup>The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

Claim 1 recites, among other elements “allocating resources to each project based on the identified resources necessary across all of the projects based on the available resources and the priority value of the project.” Swart does not teach, or even suggest, at least this element of claim 1.

The Office Action alleges that Swart discloses a system which “performs [a] search and presents qualified reserveables for the customer’s selection.” Office Action at page 4. The Office Action does not allege, however, this selection is based on “available resources and the priority value of the project.”

Swart discloses, by way of example, “[a] particular salon, in a particular locale. . . will employ a specific group of persons performing hair styling services, and each of these persons will have an individual set of skills, and an individual matrix of availability.” Swart paragraph [0029]. Continuing, Swart discloses “[a] reservable will appear in the database of the system of the invention as, for example, a Miranda Chavez styling session, with its attendant constraints on time, nature of service, and price. And is differentiated specifically from a Barbara Turner styling session, which might appear as a reservable in the database, having a different duration, applying to different hair styles, and at a different price, even though Barbara Turner may be employed by the same employer.” Swart paragraph [0030]. Finally, Swart states “[b]y virtue of two different reservables, Miranda may be engageable for any one of several services in the same or overlapping time durations. The system of the invention is required, as customers engage services (make reservations), to amend the inventory of reservables accordingly.” Swart paragraph [0031].

Nothing in the above identified disclosure, nor elsewhere in Swart, discloses the claimed “allocating resources to each project based on the identified resources necessary across all of the projects based on the available resources and the priority value of the project.” Even if Swart could be said to disclose the claimed “allocating resources,” which is not correct, Swart does not disclose, or even suggest, allocating resources “based on the available resources and the priority value of the project.” Since Swart does not disclose each and every element of claim 1, Applicant respectfully requests the Examiner withdraw the rejection of claim 1 and allow the claims. Claims 2-4 and 6-7 are allowable at least due to their dependence on independent claim 1.

Applicant respectfully traverses the rejection of claims 35-41 and 47 under 35 U.S.C. § 102(b) as anticipated by Brodersen.

Independent claim 35 recites “presenting a proposed allocation of human resources to the project manager for a project based on the identified available human resources and the priority value of the project.” Brodersen does not disclose, or even suggest, at least this feature of claim 35.

The Office Action alleges that paragraph [0040] of Brodersen discloses “resources are match[ed] based on skill sets.” Office Action at page 5. The Office Action does not allege that Brodersen discloses or suggests “presenting a proposed allocation of human resources to the project manager for a project based on the identified human resources and the priority value of the project.”

Brodersen discloses “[t]he assignment manager method and system of our invention matches resources, such as employees and employee skill sets, with needs. This is carried out in a “Rules Based” system within a resource constrained

environment. Resources, such as employees, are matched with constraints, such as skill sets, employee product expertise, language skills, workload, and employee availability, among others” (emphasis added). Brodersen paragraph [0040].

Neither the above cited portion of Brodersen nor elsewhere in Brodersen discloses, or even suggests, the claimed “allocation of human resources. . . based on the identified human resources and the priority value of the project.” Even if Brodersen could be said to disclose matching resources based on skill sets, which Applicant does not necessarily concede, Brodersen does not disclose or suggest the claimed “allocation of human resources. . . based on the identified human resources and the priority value of the project.” Since Brodersen cannot reasonably be said to disclose each and every element of claim 1, Applicant respectfully requests the Examiner withdraw the rejection of claim 35 and allow the claim.

Independent claims 41 and 47 although of different scope than claim 35, patentably distinguish the prior art for at least reasons similar to those discussed above with respect to claim 35 and are likewise allowable.

Applicant asserts the dependent claims are further allowable over the prior art at least due to their dependence from the independent claims discussed above. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of the dependent claims.

**CONCLUSION**

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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